



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

SENATE BILL NO. 1062

PRINTERS NO. 2109

PRIME SPONSOR: Rafferty

COST / (SAVINGS)

FUND	FY 2016/17	FY 2017/18
General Fund	See "Fiscal Impact" below.	

SUMMARY:

Senate Bill 1062 amends the Crimes Code and the Judiciary Code concerning burglary, offenses committed with firearms, mandatory minimum sentencing, and drug trafficking penalties. It would take effect in 60 days.

ANALYSIS:

Senate Bill 1062 requires the Pennsylvania Commission on Sentencing to provide a sentencing enhancement to the sentencing guidelines for burglary if, during the commission of the burglary the offender commits, attempts to commit, or threatens to commit a bodily injury crime as defined in the legislation.

A recent United States Supreme Court decision rendered various mandatory minimum sentencing provisions in Pennsylvania law unconstitutional. Senate Bill 1062 amends the Crimes Code and the Judicial Code to fix these defects and reinstate mandatory minimum sentencing for offenses committed on public transportation, offenses against elderly persons, offenses against infant persons, offenses committed while impersonating a law enforcement officer, trafficking drugs to minors, trafficking drugs in a drug-free school zone, offenses committed with firearms, and certain drug offenses committed with firearms.

Senate Bill 1062 also removes the mandatory sentence for distribution of certain controlled substances, raises the threshold amount of drugs required to trigger the mandatory sentence, reduces the length of the minimum mandatory sentence for others, and increases the length of the minimum mandatory sentence for certain repeat offenders.

FISCAL IMPACT:

The fiscal impact for this legislation is estimated using data provided by the Pennsylvania Commission on Sentencing (PCS) and the Department of Corrections (DOC).

Concerning the sentencing enhancement for burglary, according to the DOC, most inmates already serve an average of six and a half years for this type of burglary, so increased costs would not be seen until six and a half years after enactment. Additional costs to the DOC are

estimated at \$300,000 to \$1,200,000 per fiscal year, based on the sentencing enhancement being applied to 25% to 100% of burglary convictions.

The impact of reinstating the mandatory minimum for trafficking drugs to minors is expected to be minimal. The average number of cases is low, at less than 10 per year, and the average minimum sentence is expected to increase only slightly.

The reinstatement of the mandatory minimum for trafficking drugs in a drug-free school zone, as well the changes that both increase and decrease certain drug minimums and change the amounts of drugs that trigger the minimums are complex and could produce a range of cost estimates. The PCS and DOC data attempt to account for these variables. Increased DOC costs will be the result of two primary factors: increased average minimum sentences for offenders who would be sentenced to a DOC facility without the reinstatement of the mandatory minimums; and additional costs for new inmates who would not have been sentenced to DOC without the reinstatement of the mandatory minimums.

Enactment of this legislation could result in approximately 2,200 inmates having their sentences increased by four to six months as a result of the reinstatement of the mandatory minimums. This could increase costs in the DOC by about \$21.1 million.

Increases will also arise from new inmates being sentenced to DOC, not county jails, due to the reinstatement of the mandatory minimums. The base year the DOC used for comparison, during which minimum sentences were previously in effect, was 2012. Comparing 2012 to 2015 indicates new drug offender admissions to DOC decreased by 795 inmates. The DOC could not provide data on what portion of that decrease was the result of the former minimum sentences being ruled unconstitutional. Therefore, DOC estimated as many as 795 additional prisoner admits each year for two years, for a potential maximum of 1,590 additional inmates. This could result in a potential maximum additional cost of \$64.4 million.

Combining these projections, the DOC estimates a total impact of up to \$19 million in the first year after enactment, up to a potential maximum impact of \$21.1 million to \$85.5 million in subsequent fiscal years. The 2016-17 DOC enacted budget is \$2.39 billion.

Concerning mandatory minimum sentencing for offenses committed with firearms and certain drug offenses committed with firearms, in most of these cases, the sentences imposed are already equal to or greater than the five year mandatory minimum. Therefore, reinstatement of this mandatory minimum will have little impact.

The changes to sentencing for offenses committed on public transportation, offenses against elderly persons, and offenses committed while impersonating a law enforcement officer are not expected to produce a substantial effect because the number of cases annually is so small.

Concerning offenses committed against infant persons, the number of offenders sentenced is an average of 85 per year based on the three most recent years of data. However, in most of these cases, the sentences imposed are already equal to or greater than the five-year mandatory minimum. Therefore, reinstatement of this mandatory minimum will have little impact.

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House Appropriations Committee (R)

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Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.